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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,247	11/02/2001	David Lahiri Bhatoolaul	15-29-7-12	2775

7590 10/03/2005

Lucent Technologies Inc.
Docket Administrator (Room 3J-219)
101 Crawfords Corner Road
Holmdel, NJ 07733-3030

EXAMINER

NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,247

Applicant(s)

BHATOOLAUL ET AL

Examiner

David Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As recited, claim 11 reads on a computer program per se. The claimed invention is not tangibly embodied. Suggest "stored on a computer readable medium".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Luong (US 5,901,361).

Regarding claims 1,6 and 11, Luong discloses a method, a computer program and battery operated user equipment for use in a radio telecommunications network, including means for

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monitoring the actual battery charge level (see abstract; col. 1, lines 49-53) and means for communicating said level to a base station (see abstract; col. 1, lines 49-53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5,7-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luong (US 5,901,361) in view of Goetz et al. (US 6,349,204 B1).

Regarding claims 2-3 and 7-8, Luong does not disclose including a data store and means for configuring the equipment to receive files automatically and store them in the data store, or to retrieve files from the data store and transmit them, without activating any sounder or vibrator for alerting the user; including means for monitoring the available data storage capacity of the data store and communicating available storage capacity data to the base station.

However, Goetz et al. discloses a data store and means for configuring the equipment to receive files automatically and store them in the data store (see col. 4, lines 34-41; fig. 1; monitoring & control 6; col. 6, lines 4-14, lines 28-32), or to retrieve files from the data store and transmit them, without activating any sounder or vibrator for alerting the user; means for monitoring the available data storage capacity of the data store and communicating available

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storage capacity data to the base station (see col. 4, lines 34-41; fig. 1; monitoring & control 6; col. 6, lines 4-14, lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide above teaching of Goetz to Luong so that files downloaded can be stored in the user's equipment to avoid re-downloading.

Regarding claims 5 and 10, the battery operated user equipment for use in a radio telecommunications network of Luong in view of Goetz et al. does disclose including means for estimating whether the available data storage capacity is/are sufficient to allow reception or transmission of each file, with or without a predetermined reserve, and for denying reception or transmission if the level of charge or the available data storage is insufficient (see abstract; col. 7, lines 15-38; figs. 6-7; col. 10, line 55 to col. 11, line 5; and col. 11, lines 45-67 of Luong).

5. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luong (US 5,901,361) in view of Goetz et al. (US 6,349,204 B1) and further in view of Brown et al. (US 6,185,423 B1).

Regarding claims 4 and 9, the battery operated user equipment for use in a radio telecommunications network of Luong in view of Goetz et al. does not disclose means for estimating which one of a plurality of available physical channels would best conserve battery charge, and for signaling the identity of that channel to the base station during call set up.

However, Brown et al. discloses means for estimating which one of a plurality of available physical channels would best conserve battery charge, and for signaling the identity of

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that channel to the base station during call set up (see col. 3, lines 25-44 and fig. 1; sorting a list of available channels based on signal strength to save power battery).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide above teaching of Brown et al. to the method of Luong in view of Goetz et al in order to save power and increase device battery life.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN

David Nguyen


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER